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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

LORETO OSUNA,

Defendant and Appellant.

D075253

(Super. Ct. No. JCF001082)

APPEAL from a judgment of the Superior Court of Imperial County, Marco D. Nunez, Judge. Affirmed.

John L. Staley, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

In this case, Loreto Osuna pleaded no contest to one count of assault with force likely to cause great bodily injury (Pen. Code, § 245, subd. (a)(4)) arising out of an incident of domestic violence. The remaining charges were dismissed. Osuna was granted probation subject to serving 180 days in custody. The court also issued a

criminal protective order restricting Osuna's contact with his wife, the victim of the assault. The order was modified to permit Osuna to speak with his wife but denied the request of both Osuna and his wife to permit them to live together.

In January 2019, the court held an evidentiary hearing on Osuna's motion to modify the protective order. After the hearing, the court again denied the request to modify the protective order to permit the victim and Osuna to live together.

Osuna filed a timely notice of appeal to challenge the court's refusal to modify the protective order.

Appellate counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), indicating he has not been able to identify any arguable issue for reversal on appeal. Counsel asks this court to review the record for error as mandated by *Wende*. We offered Osuna the opportunity to file his own brief on appeal, but he has not responded.

STATEMENT OF FACTS

The underlying offense was committed in July 2018. During an argument Osuna assaulted his wife. He stuffed a sock in her mouth, which impaired her breathing. Osuna then pushed her to the ground and attempted to smother her with a comforter. She screamed, and their son came into the room. The assault ended. The son then called police and Osuna was arrested.

In the hearing on the motion to dissolve the protective order, the victim testified she wanted Osuna to return home. She said Osuna has not demonstrated any erratic

behavior since the order was put in place in October 2018. The probation officer submitted a supplemental report recommending the motion be denied.

DISCUSSION

As we have noted, appellate counsel has submitted a brief pursuant to *Wende* indicating he has not identified any arguable issue for reversal on appeal. In order to assist this court in its review of the record, and in compliance with *Anders v. California* (1967) 386 U.S. 738 (*Anders*), counsel has submitted the following possible issues for our consideration: 1) Whether the trial court abused its discretion in failing to modify the protective order; and 2) whether events which took place after the trial court's January 19, 2019 order (which are not in the record) have rendered the issues moot.

We have reviewed the entire record as mandated by *Wende* and *Anders*. We have not discovered any arguable issue for reversal on appeal. Competent counsel has represented Osuna on this appeal.

DISPOSITION

The judgment is affirmed.

HUFFMAN, Acting P. J.

WE CONCUR:

O'ROURKE, J.

GUERRERO, J.